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September 5, 2013

Hon. Nina Gershon
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Irina Shelikhova, et al.
10-Cr.-771 (S-1) (NG)

Dear Judge Gershon:

I represent Irina Shelikhova ("Mrs. Shelikhova") who is scheduled to be sentenced on September 11, 2013 at 11:00 am. This letter memorandum is submitted to set forth reasons for Your Honor to consider imposing a sentence that will enable Mrs. Shelikhova to live the autumn of her life outside of prison. I recognize that my client committed a serious and substantial crime and that a jail sentence will be warranted. That being said, it is left to Your Honor to determine, under the rare and unusual circumstances here, how much of the balance of her life will be spent in a Federal prison.

The circumstances here are, indeed rare--at least to me in my 48 years of practice in the Eastern District. Mrs. Shelikhova (50 years of age) acknowledged her participation in the Bay Medical fraud. Assuming arguendo, that she was the "mastermind" as the government maintains, she would know that her son Max, and niece, Elena, were perched at the top of the scheme's pyramid. When the Federal agents, on July 16, 2010, made several arrests at and searched the Bay Medical offices, she had to realize that her son and niece, as well as herself, would be in trouble. On that day, Mrs. Shelikhova was at a doctor's office in New Jersey. Whether it was incredibly poor judgment, fear, panic or illness (or all of them), after arrangements were made for her surrender at the Courthouse on July 19, 2010, she failed to appear and went to the Ukraine, her home country. Max went there also, but on a separate flight.

The Ukraine is a country which has no extradition treaty with the United States. Mrs. Shelikhova, thus was safe and secure there and could not be brought back to the United States

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to face the charges in this case. Yet, knowing the negative legal consequences of voluntarily returning here, she, nevertheless authorized me to arrange for her voluntary surrender to the FBI at JFK Airport on June 14, 2012. On that day, as arranged, she was taken into custody, in my presence, and has been incarcerated in the MCC ever since. Through the services of interpreters, a plea agreement was reached and a plea to money laundering conspiracy was entered before Your Honor on January 4, 2013.

I believe that many people ask why did Irina Shelikhova voluntarily return and leave her safe haven in the Ukraine only to face certain remand and possible substantial prison time later. I have learned that it has become public through the recently concluded Drivas trial before Your Honor that "star" witness cooperator, Max, would only secure a cooperation agreement with the government if he could arrange his mother, Irina's, return to the United States. In his fifth bail application, which Your Honor again denied, Max' counsel stated, in pertinent part:

"...Max played a very significant role in his mother's return to this country after the government made it clear to him 'in no uncertain terms' that he 'would have to get [his] own mother to return to the United States' and that he would have to agree...to testify...'against both his mother and father before he would be offered a cooperation agreement.'" (ECF Doc. 555, p.4) (Emphasis supplied)

Max' counsel praised his client's long and hard work in "...arranging for his mother's surrender" *Id.*, p.5

Irina Shelikhova's voluntary return to the United States over a year ago was driven by her obsession with Max and her desire to come to terms with her transgressions here. Both the government (getting its "star" witness) and Max (no doubt hoping to get out of jail quickly via 5K1, having gotten his mother back) benefit from her return. I submit, that in fairness, Mrs. Shelikhova should also benefit with regard to her sentence to be imposed by Your Honor. I do not pretend to be a psychologist or someone trained in motivational processes, but it has been said that a mother loves her children even when they least deserve to be loved* and that a mother's love is instinctual, unconditional and forever.**

* Kate Samperi, "Mothers"

** Anonymous

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I realize that Mrs. Shelikhova's emotional motivation is not a judicially recognized reason to extend leniency, however, it is real in her case. I was advised that Mrs. Shelikhova even intends to submit a letter to Your Honor on behalf of Max and blames herself as his mother "for allowing this to happen".

Mrs. Shelikhova's return to the United States had additional components. Her elderly mother (84 years of age) is in poor health. (PSR, para. 58). Dr. Elhan Suley's March 6, 2013 statement, attached hereto, describes Mrs. Kuznetzova's conditions. My client, even knowing she could not have her mother visit or know she is in jail, nevertheless wanted to have direct contact with the mother's caregiver.

Mrs. Shelikhova's return was also precipitated by her desire to deal with the charges here and begin her long range hopes, even if remote, of seeing her shattered family again. She is painfully aware that she is subject to deportation when her sentence is completed.

Furthermore, her punishment for her transgressions here is real, even before the sentence to be imposed by Your Honor. According to the plea agreement, as reflected in paragraph 93 of the PSR, millions of dollars in currency and properties have been, or are in the process of being forfeited to the government. At this point, I estimate that more than \$10 million dollars will be subject to that forfeiture.

Her incarceration at MCC for the past year has been difficult. There are findings of an abnormal mammogram which caused anxiety, especially with a family history of breast cancer. There are also diagnoses of hypertension and depression. Yet, there is a sincere effort to move forward. I include two certificates presented to Mrs. Shelikhova earlier this year by the MCC. Small steps to be sure, but they are going in the right direction. Finally, I also append a sampling of letters written by acquaintances of my client which echo the care and devotion Mrs. Shelikhova has for her mother, her now fractured family and others in need.

I return to my earlier view that this is a rare case. My client age 50, left the "safe haven" of her home country to deal with her charges here and to apparently help her son secure a cooperation agreement with the government, knowing she faced immediate remand, future imprisonment and ultimate deportation. Her family is shattered, her aged mother ill, her own health questionable and enormous amounts forfeited. Merriam-Webster's Dictionary defines "punishment" as, among other things, "suffering, pain, severe treatment". I respectfully submit

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that Mrs. Shelikhova has already encountered those consequences, and more, in her year at MCC.

It is well established that the Guidelines are no longer mandatory, but rather, advisory and but one factor for Your Honor to consider in fashioning a reasonable sentence under 18 U.S.C. §3553(a). In Nelson v. United States, 129 S. Ct. 890, 892 (2009) the Supreme Court explained that “[t]he Guidelines are not only not mandatory, they are also not to be presumed reasonable.”

I recognize that Your Honor is warranted in imposing additional incarceration on Mrs. Shelikhova. However, under the particular circumstances here, I submit that a sentence below the projected Guidelines will comport with the goals of sentencing set forth in §3553(a) and still result in respect for the law, a just sentence and serve as a deterrence for others. Mrs. Shelikhova is in Criminal History Category I. She is subject to deportation. Her family is decimated as are her finances. She volutarily returned to the United States knowing the consequences would involve incarceration and financial deprivations. She returned to bolster Max' chances of living a normal life and to deal with her own transgressions. Her suffering is palpable. A chance of living outside of prison for a portion of her remaining years would recognize the concept of individualized sentencing.

Two recent Second Circuit cases – which did not have sentencing at issue – reflect the range of sentences imposed on non-violent, non-drug offenders. By way of illustration only, convictions were recently affirmed against a major hedge fund violator who received an 11 year sentence, U.S. v. Rajaratnam, 11-4416- Cr, (2nd Cir. June 24, 2013), and the Chief Executive of Duane Reade, Anthony Cuti, who received a 3 year fraud sentence, together with his CFO William Tennant who received a sentence of 3 years probation. U.S. v. Cuti, 11-3756-Cr; U.S. v. Tennant, 11-3831-Cr. (2nd Cir, June 26, 2013). Each of these “white-collar” offenders obviously possessed individual histories and characteristics that were factored into their varied sentences.

I respectfully request that Your Honor consider the circumstances here in imposing the lowest possible sentence commensurate with stated sentencing goals. In United States v. Pepper, 131

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S. Ct 1229 (2011), Justice Sotomayor viewed sentencing also in terms that the characteristics of the offender may be as important as the nature of the offense.

Respectfully submitted,

Michael Rosen

MR:wp

10
Michael
Rosen

Your Honor:

I am soon to appear before Your Honor to receive the punishment for my crime. In a humble hope for leniency I have decided to briefly tell you the story of my life. In a few weeks I will be sentenced for my crime. Since the day of my arrest I have experienced many different emotions ranging from fear to despair, but the strongest emotion I feel is remorse. I am 50 years old and came to United States almost 20 years ago with my mother, husband and son. My whole life I have lived together with my mother. My mother has gone thru many hardships in her life. During World War II, in 1942 the Germans killed her mother right in front of her eyes, and she survived by miracle. The neighbors helped by hiding her. She had very difficult time being an orphan. She had to work very hard from early childhood and encounter many obstacles and hardships in life. She is very honest and hard working person. When I was a small child my mother had a stroke in a very bad way, and only miracle had her life again. And disregarding the health issues after that, during her whole life she has continued to work, so that she can take care of her family and children. She is very loving, soft and caring mother, and has all her life for us.

When I was 20 years old, under very strange and unknown circumstances, my father has passed away. It was a great loss and soul trauma in my life. At that time I was a student at the university and worked at the same time to help my mother. When I got married and gave birth to my son, I temporarily stopped the studies, but was unable to return and complete it because of many troubles in personal life, and facing many obstacles in the country, where we lived. But I never stopped working. When in 1993 we came to United States, I went back to studies. Personal life did not go well, and my husband and myself have decided to live separately. I am very grateful to United States for all the care and help, which it gave me and my family, so that we could get on our feet. It helped us very much. I was studying and went to work to feed my son. It was not easy, but my mother was there for me, the dear friend, who always helped as much as she could. Then I met my common law husband, Sergey Kovalov, and we started living together. He was a very nice person, helped and took care of my family. He had good relationship with my son and my mother. It was the most important thing for me, because mother and son are the main people of my life. I continued to work all the time to care for my son, and give him more opportunities to build his future. But tragedy had struck. My common law husband got very sick, and all of us went thru very hard times during his sickness. My son helped me a lot and was always next to me. We fought very long and hard for the life of my common law husband, but in December of 2006 he has passed away. It was a hard and complicated period of my life. During my husband's illness I spent a lot of time at the hospitals, and saw many sufferings and pain. I love people very much and always take it too close to my heart the problems and endurance of others, and always try to help with whatever in my power. I always wanted to participate in some kind of business, to create something new, that could help people, and be useful. I was excited to accept the invitation to create and work at new medical office. I was very happy when the office has achieved more and more of professional opportunities. I was very attentive and kind to people, who attended the clinic, put my heart into everything I did, and desired that everything was performed at the highest standards. But at my huge regret, in the course of business, due to insufficient knowledge, many mistakes and violations were made, which led to breaking the law.

I am very sorry and ashamed for what I did. I was always afraid to break the law, and never in my life had problems with that. Now I feel the guilt to the country and society, that accepted myself and my family, did a lot of good for us. My guilt to the country, which became the homeland and dear home for myself and my family. I am asking to accept my apologies and repentance. It is my fault that I allowed my son make the mistakes. I am heartbroken and ashamed for that and asking for forgiveness again. On the day of arrests at the office, I was not present, since it was a second day after my surgery, and I had complications. And after everything that occurred, going thru nervous shock. I had terrible health issues. And since I never encountered such things. I got scared by the warnings from others that everything could get complicated for my health. I asked for help from my friends that I had in Ukraine. They responded to my cries for help and I left for Ukraine, hoping to improve my health and definitely come back. But not everything happened the way I thought. In Ukraine I encountered many complications, and could not return as fast as I wanted. But during this whole period of time I tormented myself

and suffered, understanding that I can not and do not want to live like that. I was and still worry about my mother. She is very old and sick. She is 84 years old. During all that time my best friend was by mother's side, and she is with her right now. Because of my mother's bad heart, I did not want her to know what happened to me and to all our family. I know that these news will kill her. And we are trying to hide the truth from her by all possible means. She is waiting for return every day and I am scared and horrified that I have to hide the truth from her, and asking her to be strong, and that I will return soon. It is a tragedy for me. When I was still in Ukraine and heard of my son's arrest, I put all the efforts, to overcome all the difficulties facing me and returned as soon as I could. And right now, waiting for a verdict and the decision of my whole life. I am appealing to You, Your Honor, as a representative of the entire Justice. I am bearing my punishment and sincerely asking to accept my repentance and apologies for everything I did wrong. I am asking for an apology as a mother for the son. I am asking to give me a chance to prove, that an honest person, who stumbled in life, and give me an opportunity to be helpful to the society. Asking whichever way possible to soften my sentence. I plan to make good in my future. I need to stay strong for my family. To work hard in the future and stay focused and to never commit a crime again. That is for certain I am so disquieted in my poor choices. I pray to be able to see my mother in this life. Pray, so that I can come back to my family. Pray for my son, because without them my life has no meaning. I love America very much, God bless this country! I am asking for forgiveness and leniency.

Your Honor: I am grateful to You for taking out the time to read my letter. Thank You.

Respectfully, Irina Shelikhova.

ELHAN SULEY DO PC
17 Blueberry Lane
Staten Island, NY 10312
Tel: (516) 2259059
Fax: (516) 5580999

Cc: Vera Kuznetzova
8686 Bay Parkway, Apt 2C
Brooklyn, NY 11214

March 6, 2013

To Whom It May Concern:

Mrs. Vera Kuznetzova (DOB 11/24/1928) has been my patient for past 5 years; she suffers from multiple medical problems such as Depression, Dementia, Transient Ischemic Attack, Hypertension, Hypothyroidism, Osteoarthritis, recent hospitalization s/p hip fracture, which made her home bound. My patient is currently stable; moving her to new place can aggravate her condition.

If you should have any questions, please contact me at above number.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Suley', written in a cursive style.

Dr. Elhan Suley

Agafiya Nych
325 E.5 TH.ST. APT.D2
New York N.Y.10003
Phone No:646-346-0484
Feb 15, 2013

Re: Character reference for Irina Shelikhova

Dear the honorable Judge Nina Gershon,

My name is Agafiya Nych. I have known Irina since 2006. I am a home-attendant. I am looking after Irina's mother. She is elderly woman and can't move without help. She missed her daughter very much. I used to see her once a week. Our relationships were professional. I must mention that she is very good daughter. She took care of her mother in the best possible way.

I would like to thank the court and your honor for taking your time and effort into reading this letter and if any further questions, please contact me at 646-346-0484.

Agafiya Nych



February 15, 2013

Igor Tser
98 Armstrong Ave,
Staten Island NY 10308
(917) 589-4227

Attn: Honorable Judge Nina Gershon

You're Honor,


My name is Igor Tser and I know Irina since 1999. At that time we were selling our house and Irina with her husband made an offer to purchase.

I am working as mortgage specialist at Wells Fargo Bank. I am happily married for 29 years and have two daughters and two grandsons. I become friend with Irina's husband Sergey, and we had spent a lot of time together; fishing, talking and barbequing. At that time Sergey was working as a limo driver and Irina was working as a bookkeeper for the same limo company. Both of them worked very hard to be able to afford the homeownership.

When Sergey passed away, it was a great tragedy for all of us, not only for Irina. We know that her life had changed since then, but I and my wife still have friendly relationship with Irina's family. We are not only neighbors, we are friends.

Irina is a great mother and daughter, and family is the most important thing in here life. She is kind, polite, always willing to help. She has a big hart and great soul.

I would like to thank the Court for reading this letter.


Igor Tser

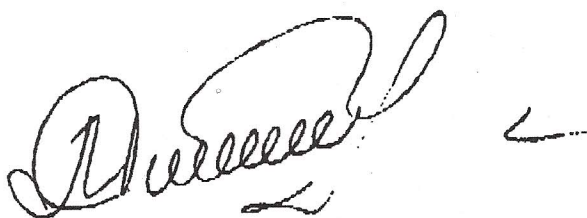
09.20.2013
Date

Inna Martynyuk
79 Av. O Apt. C4
Brooklyn, NY 11204

I, Inna Martynyuk, met Irina Shelikhova in 2005. Currently I'm employed as a home attendant for Irina's mother. During the time that I had spent with Irina and her family, I had grown to consider Irina as a close and dear friend. She had proven to be a sincere and kind human being. I witnessed her caring a great deal for her family and friends. Her patience and understanding has helped me through a lot of hard times. Irina was always eager to help at our local temple as well as individual synagogue goers. Irina had always made my job caring for her mother easy and pleasurable by participating in every routine, for example attending doctor's appointments and helping with washing and dressing her dear mom.

Her absence leaves a gaping hole in our lives. We miss the generosity of her spirit, her kind words and wisdom of her advices. My heart breaks to watch Irina's old mother cry and miss her daughter so greatly. I pray for this family to reunite in the nearest future, allowing a loving daughter to care for her mother in her advanced life.

I would like to thank your honor, Nina Gershon for taking your time and reading this letter.



August 18, 2013

Anastasia Gula

I, Anastasia Gula, am Irina Shelikhova's niece. I have grown up with Irina and my great grandmother. I only have the kindest words to say about Irina. She is a sincere, caring and kind person. She is a caring daughter as well as mother. For instance, her understanding and kind nature has helped me in many situations. Irina is a generous and selfless human being.

I miss Irina, and I hope I will have the chance to see her soon. We spent a lot of time together and always went together to events such as birthday parties and picnics. Additionally, Irina has hosted many parties and such events for her friends and family.

I would like to thank your honor, Nina Gershon, for taking the time for reading this letter.

A handwritten signature in black ink, appearing to be 'Anastasia Gula', written in a cursive style.

To: Judge , Nina Gershon

From: Marina Esaian
707 Bevrley rd apt# 3k
Brooklyn , ny 11218

My name is Marina Esaian and I know Irina Shelikova through my husband who worked with her husband at the limo service. I'm happily married with two grown up children, I work as a fulltime babysitter. I have known Irina for 11 years now, we have a very close relationship and we used to see each other as much as we were possibly able too. We used to go fishing, camping, hiking, travel and vacations. We used to celebrate each other's birthdays and spend time together on holidays. She was a good friend that I used to be able to come and discuss my family problems with! We used to try to help each other with different suggestions we came up to figure out what would be the best solution for what we were going through at that time.

Irina is a very respective, devoted, loyal and understanding person out of anyone I have known my whole life. There is not a single problem that I wasn't able to go to her for! She is very attentive and proficient. I remember one time a couple of years back when I was at the hospital having a surgery she did not leave my sight and anything that I required she was there helping me by my side, she made sure I was looked after and made sure I had anything I needed, the whole time I was in the hospital she waited for me until the moment I was discharged after which, she attended me to my house to help me with everything I needed to do around the house until I was better. Irina is really a miraculous person and a very good friend and if there was anything that she needed from me I would be there by her side as she was for me.

I want to thank the Judge Nina Gershon for taking her time and reading this letter.

Thank you very much!

07.24.13
MARINA ESAIAN
M. Esaian

To Michael Rosen

Rimma Papshev
290 174th Street #1002
Sunny Isles Beach, FL 33160
0305-409-4010

May 8, 2013

My name is Rimma Papshev, and I have known Irina Shelikhova for many years. We have met back in Kharkiv, Ukraine through a friend and have become good friends ever since. Back in Ukraine we used to spend a lot of time together, and gladly I got the chance to become close with Irina. Irina is a loyal, understanding, and compassionate person. She is a loving daughter and a caring mother; and she's also a considerate friend. Charitable and kind, Irina always had the desire to help others. Irina has never broken the law before, and I consider this situation to be a great mistake.

I would like to thank the Honorable Judge Nina Gershon for taking the time to read this letter. Thank you!

Rimma Papshev

RIMMA Papshev

Certificate Of Achievement

Presented

To

Irena Shelikhova

For the completion of the

Mold Clean Up Training

OSHA CFR 1910.22(a)(1)



A handwritten signature in black ink, appearing to be "A. L. P.", is written over a horizontal line.

Safety Manager

April 08, 2013

Date

Certificate of Achievement

Awarded to:



Irina Shelikhova
#81448-053



For participation and outstanding efforts towards obtaining
better personal health and fitness in the:

2013 MCC Unit 2 Wellness Workshop

New York City Metropolitan Correctional Center
Recreation Department

02-28-2013
Date

R. Winner, Recreation Specialist

NEW YORK CITY MCC
RECREATION
DEPARTMENT

**NEW YORK
DOWNTOWN
HOSPITAL**

170 William Street
New York, NY 10038

Radiology Department
(212)312-5179

10/11/2012

IRINA Z SHELIKHOVA
150 PARK ROW
NEW YORK NY 10007-000

DOB: 09/18/1962
Accession # 2652MA12
Date of Service: 10102012
Procedure: SCREENING DIGITAL
MAMMOGRAM - BILATERAL

Dear Ms. Shelikhova:

The purpose of this letter is to inform you regarding the results of your most recent digital screening mammogram at NY Downtown Hospital. The digital screening mammogram performed on 10/10/2012 showed findings that require you to have additional breast imaging performed. Please contact us at (212) 312-5163 to set up an appointment for the additional breast imaging.

El proposito de esta carta es para informarle en relacion de sus resultados a su mas reciente examen en NY Downtown Hospital. Su mas reciente examen realizado en la fecha de servicio demostro resultados que usted se haga una proyección de imagen adicional del los senos. Por favor comuniquese con nosotros al (212) 312-5163 para hacer una cita para una proyección de imagen de los senos adicional.

這封信的目的是為了確認您已經聯繫及告知您的醫生或您的健康照顧提供者就您近來在紐約下城醫院作的乳房造影檢查。你的乳房造影檢查結果顯示您需要作進一步的檢查。請致電(212)312-5163預約乳房檢查。

An official report has been sent to your Health Care Provider.
Un informe oficial se ha enviado a su proveedor de suidoado medico:

一份正式的報告已經寄給您的健康照顧提供者

Sincerely,

Meghan Doherty, Radiologist

PICHITRA DEJKUNCHORN at 150 PARK ROW, New York,
NY 10007

Your breast exam will become part of your medical file here at NY Downtown Hospital for at least 10 years. If you choose to have future breast exams at a different facility, you are responsible for informing them of the date and location of this breast exam.

Su examen de seno se convertira en parte de su archive medico en NY Downtown Hospital por lo menos de 10 anos. Si usted elige tener una examen de seno en el futuro en otra facilidad diferente, usted es responsable de informarles la fecha y la localizatio de este examen de seno.

您的乳房造影檢查將成為紐約下城醫院至少10年的醫療檔案。如果您選擇別的機構作進一步的乳房造影檢查，您有責任通知他們有關這次乳房造影檢查的日期與地點。

BIRADO